

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TREMAYNE CARROLL, LATASHA
BROWN,

Plaintiffs,

v.

NEWSOME, CDCR, PAT VASQUEZ,

Defendants.

Case No. 1:23-cv-00224-HBK (PC)

ORDER TO FILE COMPLAINT

ORDER TO FILE ATTACHED
APPLICATION TO PROCEED *IN FORMA*
PAUPERIS OF PAY FILING FEE

30-DAY DEADLINE

Plaintiff Tremayne Carroll, a state prisoner proceeding pro se, initiated this action on her own behalf and purportedly of behalf of another prisoner, Latasha Brown, by filing a pleading titled “Temporary Restraining Order, Preliminary Injunctive Relief, Release to Community, Transfer to Federal Custody or Out-of-State, Imminent Danger, PREA SB132” on February 8, 2023 in the Sacramento Division of the Court. (Doc. No. 1, Motion). The Sacramento Division transferred this action to this Court on February 15, 2023. (Doc. No. 3). Plaintiff did not accompany the construed Motion with a complaint, an application to proceed *in forma pauperis* or the requisite filing fee. The Court will afford Plaintiff a limited opportunity to correct these procedural deficiencies before recommending a dismissal of this action.

Plaintiff is advised that “[a] civil action is commenced by filing a complaint with the

1 court.” Fed. R. Civ. P. 3. While a court must engage in the preliminary screening of any
2 complaint in which a prisoner seeks redress, when the prisoner does not file a complaint pursuant
3 to Fed. R. Civ. P. 3, the prisoner has not commenced a civil action. *Mendez v. Cal. Dep’t. of*
4 *Corr.*, 1999 WL 1271268, at *1 (N.D. Cal. Dec. 21, 1999). Although pleadings filed by pro se
5 litigants are entitled to liberality in their pleadings, they are still required to comply with the
6 Federal Rules of Civil Procedure. *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995).

7 Plaintiff did not comply with Fed. R. Civ. P. 3 and did not properly initiate this action.
8 Moreover, Plaintiff Carroll is not an inexperienced litigator. A review of the Pacer Database
9 indicates she has filed at least 16 civil actions in United States courts and therefore is well-aware
10 that she must file a complaint to initiate an action.¹ Indeed, Plaintiff has previously been advised
11 that she must file a complaint to initiate an action in federal court under Fed. R. Civ. P. 3. *See*
12 *Carroll v. State of California et. al.*, 2:18-cv-01832-SVW-JC (C.D. Ca. March 8, 2018); *see also*
13 *Carroll v. A A Lamarque*, 2:03-cv-09105-SJO-CW (C.D. Ca. Dec. 15, 2003).

14 In filing her complaint, Plaintiff, as a pro se litigant, may only file the complaint on behalf
15 of herself. Plaintiff may not file a complaint on behalf of another inmate. *Simon v. Hartford Life*
16 *and Accident Ins. Co.*, 546 F.3d 661, 664 (9th Cir. 2008)(a pro se litigant may not “pursu[e]
17 claims on behalf of others in a representative capacity.”). Further any party filing a civil action
18 must accompany their filing with the requisite \$402.00 filing fee or an application to proceed *in*
19 *forma pauperis*. Plaintiff did not accompany her Motion with the \$402.00 filing fee or an
20 application to proceed *in forma pauperis* under 28 U.S.C. § 1915. Plaintiff also has previously
21 been advised of this requirement in other cases. *See Carroll v. CSP-LAC John Doe*, 2:22-cv-
22 97754-VBF-DFM (C. D. Cal. October 25, 2022); *Carroll v. State of California*, 3:15-cv-01660-
23 GPC-JMA (S. D. Cal. August 31, 2015).

24 Given this Court’s limited resources and overburdened docket, and in light of the fact that
25 Plaintiff has repeatedly been advised of these deficiencies in the past, the Court will recommend a
26 dismissal of any future actions improperly commenced by Plaintiff if initiated with the same
27

28 ¹ See <https://pcl.uscourts.gov/pcl/pages/search/results/parties.jsf>.

procedural deficiencies without affording Plaintiff an opportunity to correct the deficiencies.

Accordingly, it is **ORDERED**:

1. Within **thirty (30) days** of date on this Order, Plaintiff shall deliver to correctional officials for mailing a signed complaint.
2. Within **thirty (30) days** of date on this Order, Plaintiff shall file the attached application to proceed *in forma pauperis*; or (2) pay the \$402.00 filing fee.
3. If Plaintiff fails to timely comply with this Order, or request an extension by showing good cause, the undersigned will recommend the district court dismiss this case for Plaintiff's failure to comply with a court order and/or prosecute this action.

Dated: February 17, 2023


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE